



# NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

## Legislative Fiscal Note

**Short Title:** 2019 Appropriations Act.  
**Bill Number:** House Bill 966 (Fifth Edition)  
**Sponsor(s):** Representatives Johnson, Lambeth, Saine, and McGrady

### SUMMARY TABLE

#### FISCAL IMPACT OF REVENUE CHANGES IN H.B. 966 V.5 (\$ in millions)

	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
<b>State Impact</b>					
General Fund Revenue					
Personal Income Tax	(1.0)	(53.0)	(117.1)	(118.1)	(119.1)
Corporate Tax	(107.6)	(255.2)	(265.8)	(276.8)	(288.3)
Sales and Use Taxes	94.6	124.2	129.5	134.9	140.6
Other Tax Changes	12.0	182.5	177.0	209.5	195.0
Fees and Assessments		See Fiscal Analysis Section			
<b>General Fund Impact</b>	<b>(2.0)</b>	<b>(1.5)</b>	<b>(76.4)</b>	<b>(50.5)</b>	<b>(71.8)</b>
<b>Highway Fund Revenue</b>					
Sales and Use Taxes	-	(5.4)	(10.8)	(10.9)	(11.1)
Railroad Dividends	(3.6)	(3.7)	(3.7)	(3.7)	(3.7)
Fees	0.8	2.0	2.6	3.3	4.2
<b>Highway Fund Impact</b>	<b>(2.8)</b>	<b>(7.1)</b>	<b>(11.9)</b>	<b>(11.3)</b>	<b>(10.6)</b>
<b>Dry Cleaning Solvent Fund</b>					
Dry Cleaning Solvent Tax		0.2	0.2	0.2	0.2
General Fund Transfer	-	8.0	8.0	8.0	8.0
<b>Special Fund Impact</b>		<b>8.2</b>	<b>8.2</b>	<b>8.2</b>	<b>8.2</b>
<b>NET STATE IMPACT</b>	<b>(\$4.8)</b>	<b>(\$0.4)</b>	<b>(\$80.1)</b>	<b>(\$53.6)</b>	<b>(\$74.2)</b>
<b>Local Revenue Impact</b>					
Sales and Use Taxes	45.2	67.0	69.5	72.1	74.8
Property Tax	Negligible Impact. See Fiscal Analysis Section				
<b>NET LOCAL IMPACT</b>	<b>\$45.2</b>	<b>\$67.0</b>	<b>\$69.5</b>	<b>\$72.1</b>	<b>\$74.8</b>

## FISCAL IMPACT SUMMARY

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***This fiscal note does not address expenditures; it addresses only changes to revenue in H.B. 966, which include the following:***

### **Taxes**

#### *Personal Income Tax*

- Section 41.1 increases the standard deduction effective 2021 from \$10,000 to \$10,500 for single taxpayers or married taxpayers filing separately; from \$15,000 to \$15,750 for taxpayers filing as head of household; and from \$20,000 to \$21,000 for married taxpayers filing jointly.
- Section 41.2 allows taxpayers age 70.5+ to roll over distributions to charitable nonprofits tax-free beginning 2019.

#### *Corporate Income and Franchise Tax*

- Section 41.3 reduces the franchise tax rate from \$1.50/\$1,000 to \$1.29/\$1,000 effective for 2019 returns and to \$0.96/\$1,000 effective for 2020 returns. This section also eliminates the 55% appraised value base; keeps the \$1.50 tax rate for utilities until 2026; and expands the definition of a holding company.
- Section 41.4 enacts market-based sourcing, effective for 2020 returns.
- Section 41.6 provides a tax deduction for State economic incentive grants, effective for 2019.

#### *Sales and Use Taxes*

- Section 12.14 extends the sunset date for the dry cleaning solvent tax and the annual transfer from General Fund sales tax revenue into the Dry-Cleaning Solvent Cleanup Fund until 2030.
- Section 41.5 requires marketplace facilitators to collect and remit sales tax under certain circumstances.
- Section 41.8 extends the sunset date for an existing sales tax exemption for qualifying airlines until January 1, 2024.
- Section 41.9 extends the sunset date for existing sales tax exemptions and refunds for the motorsports industry until January 1, 2024.

#### *Other Tax Changes*

- Section 9D.19 imposes the State's existing 1.9% insurance premiums tax on prepaid health plans.
- Section 40.14 reduces from 35 years to 30 years the vehicle age required for a vehicle to qualify for an antique registration plate.
- Section 41.7 extends the State's Historic Rehabilitation Tax Credit to include expenses incurred by January 1, 2024.



- Section 41.10 provides tax and regulatory exemptions for companies and individuals that come into the state exclusively to perform disaster recovery work during a disaster response period.

**Fees and Assessments**

- Section 9D.18 revises existing hospital assessments for the shift to Medicaid managed care.
- Section 15.11 increases multiple fees related to estates, foreclosures, and marriage
- Section 16.3 increases a fee paid by indigent defendants and increases criminal court costs by \$2.
- Section 18.21 changes the annual fee for constructors and operators of fixed nuclear facilities from a flat fee of \$36,000 to a fee of at least \$36,000.
- Section 29.1 maintains the Insurance Regulatory Fee at 6.5% for calendar year 2020.
- Section 40.18A increases the electric vehicle registration fee and creates a plug-in hybrid vehicle registration fee, effective January 1, 2020. Beginning January 1, 2021, the section also requires the Division of Motor Vehicles to adjust the fees using the Consumer Price Index and population data.

**Other Items**

- Section 12.15 authorizes the dissolution and merger of water/sewer districts and authorities.
- Section 40.3B repeals G.S. 124-18, eliminating the requirement that certain State-owned railroads issue an annual cash dividend to the State.

**FISCAL ANALYSIS**

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**Personal Income Tax**

<b>Personal Income Tax Changes (\$ in millions)</b>					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
- Standard Deduction change	-	(52.0)	(116.0)	(117.0)	(117.9)
- <u>IRA Distributions to Charities</u>	<u>(1.0)</u>	<u>(1.0)</u>	<u>(1.1)</u>	<u>(1.1)</u>	<u>(1.2)</u>
<b>Total</b>	<b>(1.0)</b>	<b>(53.0)</b>	<b>(117.1)</b>	<b>(118.1)</b>	<b>(119.1)</b>

The estimated fiscal impact was calculated using NC tax return data, the Fiscal Research Microsimulation Tax Model, IRS tax data for NC filers, and information from the Joint Committee on Taxation. Analysis and modeling inputs took into consideration a standard deduction of \$21,000 for married taxpayers filing jointly, \$15,750 for taxpayers filing as head of household, and \$10,500 for single taxpayers and married taxpayers filing separately.

The maximum reduction in annual personal income tax liability due to the increase in the standard deduction is approximately \$26 per return for single taxpayers or married taxpayers filing separately; \$39 for taxpayers filing as head of household; and \$53 for married taxpayers filing jointly.

**Corporate Income and Franchise Tax**

<b>Corporate Income &amp; Franchise Tax Changes (\$ in millions)</b>					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
- Franchise tax changes	(110.6)	(262.7)	(273.7)	(285.2)	(297.2)
- Market-based sourcing	3.0	7.5	7.9	8.4	8.9
- <u>Economic incentive grants deduction</u>	<u>Revenue decrease of less than \$1m per year.</u>				
<b>Total</b>	<b>(107.6)</b>	<b>(255.2)</b>	<b>(265.8)</b>	<b>(276.8)</b>	<b>(288.3)</b>

The fiscal impact was estimated based on the consensus revenue forecast, and based on statistics showing the number of filers and amount of tax collected by tax base. The impact of the change to the apportionment calculation was calculated based on informational reports submitted by corporations showing the amount of taxable income and taxable franchise tax base under current law compared to the proposed methodology. Adjustments were made to account for other factors including changes to the calculation of the tax base and changes to the tax rates that occurred subsequent to the filing of the informational reports.

**Sales and Use Taxes**

<b>Sales and Use Tax Changes (\$ in millions)</b>					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
<u>General Fund</u>					
- Dry Cleaning Solvent Transfer	-	(8.0)	(8.0)	(8.0)	(8.0)
- Marketplace facilitators	97.5	135.2	140.6	146.2	152.0
- Motorsports sales tax benefits	(2.9)	(3.0)	(3.1)	(3.3)	(3.4)
Subtotal	94.6	124.2	129.5	134.9	140.6
<u>Highway Fund</u>					
- Airline fuel sales tax exemption	-	(5.4)	(10.8)	(10.9)	(11.1)
Subtotal	-	(5.4)	(10.8)	(10.9)	(11.1)
<u>Dry-Cleaning Solvent Cleanup Fund</u>					
- Dry Cleaning Solvent Tax	-	0.2	0.2	0.2	0.2
- General Fund Transfer	-	8.0	8.0	8.0	8.0
Subtotal	-	8.2	8.2	8.2	8.2
<b>Total</b>	<b>94.6</b>	<b>127.0</b>	<b>126.9</b>	<b>132.2</b>	<b>137.7</b>

### Transfer to the Dry-Cleaning Solvent Cleanup Fund and Extension of Dry-Cleaning Solvent Tax

Under current law, 15% of the revenue attributable to the State's sales tax on dry cleaning, linen rentals, and certain other similar businesses is transferred into the Dry-Cleaning Solvent Cleanup Fund. This fund also receives the proceeds of the dry-cleaning solvent privilege tax. The privilege tax sunsets on January 1, 2020 and the transfer of the sales tax sunsets as of July 1, 2020. Section 12.14 extends the sunset date on the privilege tax until January 1, 2030 and the sunset on the transfer until July 1, 2030. By prolonging the annual transfer, the PCS reduces General Fund sales tax revenue and increases transfer revenue into the Dry-Cleaning Solvent Cleanup Fund. It also increases tax revenue deposited into the fund.

Based on historical actual data provided by the Department of Revenue, the total annual transfer is estimated to be \$8 million and the total annual revenue generated by the dry-cleaning solvent tax is estimated to be \$200,000.

### Marketplace Facilitators

Section 41.5 newly requires marketplace facilitators to collect and remit sales taxes. This requirement will increase General Fund sales tax revenue. The potential impact was estimated using multiple data points, including:

- State General Fund revenue increases experienced since the Department of Revenue implemented a requirement that non-marketplace online retailers collect and remit sales taxes under certain conditions, due to the US Supreme Court's June 2018 ruling in *South Dakota v. Wayfair, Inc.*
- Amazon.com, Inc.'s Quarterly Earnings Reports.
- US Census Bureau estimates of United States' ecommerce revenues.

The FY 2019-20 revenue estimate assumes a July 1 enactment and September 1 implementation.

### Sales Tax Benefits for Motorsports

Section 41.9 extends current sales tax exemptions and refunds for professional motorsports teams which otherwise would sunset January 1, 2020; the PCS extends the sunset until January 1, 2024. Fiscal Research used data from the North Carolina Department of Revenue's 2017 Tax Expenditure Report to determine the annual cost of these tax benefits.

### Sales Tax Exemption for Qualifying Airlines

Section 41.8 extends from January 1, 2020 to January 1, 2024, the expiration for a sales tax exemption for sales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft. This extension reduces revenue in the Highway Fund, where the revenue would otherwise be credited. Revenue estimates are based on proprietary data provided by industry, as well as data provided by the Department of Revenue.



## Other Taxes

<b>Other Tax Changes (\$ in millions)</b>					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
- Insurance Premiums Tax	12.0	187.0	182.0	215.0	201.0
- Antique auto vehicle registration	Unknown but minimal decrease in local revenue.				
- Disaster relief legislation	Unknown decrease in corporate, franchise, individual income tax.				
- <u>Historic Rehabilitation Tax Credit</u>	-	(4.5)	(5.0)	(5.5)	(6.0)
<b>Total</b>	<b>12.0</b>	<b>182.5</b>	<b>177.0</b>	<b>209.5</b>	<b>195.0</b>

### Insurance Premiums Tax

Section 9D.19 applies the State's 1.9% premiums tax levied under G.S. 105-228.5 to Medicaid capitation payments received by prepaid health plans (PHPs) in the same manner in which the tax currently applies to gross insurance premiums. This section is effective October 1, 2019 and is expected to generate \$12.0 m in FY 2019-20 and \$187.1 m in FY 2020-21.

These estimates assume that PHPs begin operations in two of the State's six managed care regions on November 1, 2019, as currently scheduled. The other four regions would begin operations on February 1, 2020. By the end of FY 2019-20, PHPs would be serving more than 1.5 million Medicaid beneficiaries and receiving more than \$500 million per month in Medicaid capitation payments subject to the tax.

A second phase of managed care is expected to start July 1, 2021, when Tailored Plans serving individuals with intellectual and developmental disabilities and individuals with severe mental illness and drug use disorders will begin. The PHPs operating Tailored Plans are projected to enroll more than 200,000 Medicaid recipients and receive more than \$250 million per month in capitation payments.

### Antique Automobile Vehicle Registration

Section 40.14 expands the definition of "antique automobile," allowing additional vehicles to qualify for the Historic Vehicle Owner registration plate. Based on information from DMV, there are currently 253,000 vehicles older than 35 years, but only about 17,000 of those have antique auto plates. There are 48,000 vehicles that are between 25 and 35 years old. Assuming that the year-of-manufacture for these vehicles is evenly distributed among this ten-year period, and assuming that the same percentage of those would apply for antique plates, the provision would result in 1,600 additional vehicles with antique plates. That would reduce inspections fees by a negligible amount. It would also have a small impact on property taxes.

### Historic Rehabilitation Tax Credit

Under current law, the tax credit expires for expenses incurred on or after January 1, 2020. Section 41.7 extends the expiration date, resulting in a loss of tax revenue by increasing eligibility for the credit. The estimate is based on tax return data showing the reduction in tax collections resulting from the credit.

## **Fees and Assessments**

### **Hospital Assessments**

Section 9D.18 revises and updates the existing hospital assessments in a manner that conforms with Medicaid transformation. DHHS will calculate the hospital assessment rates annually, the Governor will propose the rates, and the General Assembly will set the assessment rates.

The revised assessments are calculated to collect the same proportion of Medicaid hospital payments that are currently collected under the existing assessments. The Senate rates for 10/1/2019 to 9/30/2020 are 1.51% for base assessment and 2.31% for supplemental assessment. The revised assessments will collect an estimated \$520.1 million from 10/1/2019 to 9/30/2020. This is probably slightly more than the existing assessments due to managed care adjustments.

### **Estates/In REM Foreclosures**

Section 15.11 increases multiple fees related to estates, foreclosures, and marriage.

- 15.11.(a) amends G.S. 7A-307 by adding a new \$20 filing fee to be assessed upon an application to the clerk of superior court for payments received on behalf of a decedent.
- 15.11.(b) amends G.S. 7A-309 to increase from \$20 to \$50 the fee collected by magistrates for performing a marriage ceremony, and from \$8 to \$20 the fee collected by a magistrate related to the magistrate's hearing petition for year's allowance to a surviving spouse or child.
- 15.11.(c) amends G.S. 7A to establish a \$300 fee for in rem foreclosures under certain conditions.

The fee increases are effective at various points during FY 2019-20, so a full year of revenue will not be realized until the second year of the biennium. Combined, the changes are anticipated to generate approximately \$725,000 in FY 2019-20, and \$1.5 million in FY 2020-21.

### **Indigent Defendants and Court Fees**

Section 16.3 increases the appointment fee paid by indigent defendants from \$60 to \$75. The section also increases criminal court costs by \$2, and directs the additional revenue from that increase to the Office of Indigent Defense Services. These two changes are effective December 1, 2019 and are anticipated to generate \$1 million in FY 2019-20 and \$2 million in FY 2020-21.

### **Insurance Regulatory Fee**

Section 29.1 maintains the Insurance Regulatory Fee at its current rate of 6.5%; doing so has no impact on State revenue.

### **Radiological Emergency Planning**

Section 18.21 amends G.S. 166A-29, which requires entities who are licensed to construct or operate certain fixed nuclear facilities to pay an annual \$36,000 fee to the Department of Public Safety for planning and implementing FEMA-required emergency response activities. Under the PCS, the fee will be changed from a flat rate of \$36,000 to a rate of "at least \$36,000."

For several years, the only entity that meets the fee criteria (i.e., Duke Energy) has maintained a Memorandum of Agreement (MOA) with the State to pay more than the minimum payment. Under



the current MOA, Duke Energy pays approximately \$2.2 million annually to the State to be used for these emergency planning purposes. This provision is expected to have no fiscal impact, because revenue has already been budgeted based on the existing MOA.

**Plug-in Hybrid and Electric Vehicle Fees**

Section 40.18A.(a) increases from \$130 to \$230 the annual fee that is assessed on plug-in electric vehicles, in addition to regular registration fees. In FY 2017-18, there were approximately 5,000 plug-in electric vehicles registered in North Carolina. Between FY 2013-14 and FY 2017-18, plug-in electric vehicle registrations increased an average of 35% annually. The fiscal impact is approximately \$500,000 in FY 2019-20 and \$1,100,000 in FY 2020-21. This estimate only accounts for increases in the number of vehicles, but does not account for annual fee increases, which will occur beginning January 1, 2021.

Section 40.18A.(b) creates an annual plug-in hybrid vehicle registration fee. Beginning January 1, 2020, the annual fee will be \$115. The estimated fiscal impact is \$300,000 in FY 2019-20 and \$900,000 in FY 2020-21. This estimate is informed by data from the Alliance of Automobile Manufacturers using information provided by IHS Markit, which showed that plug-in hybrids represented approximately 40% of all plug-in vehicles first registered in North Carolina between January 2011 and December 2018. This estimate only accounts for increases in the number of vehicles, but does not account for annual fee increases, which will occur beginning January 1, 2021.

Section 40.18A.(c) annually adjusts plug-in electric vehicle and plug-in hybrid vehicle registration fees beginning January 1, 2021. The fees will be adjusted pursuant to a formula based on 75% of the change in population and 25% of the annual change in the Consumer Price Index for All Urban Consumers (CPI). The CPI report is released annually the October prior to the annual adjustment.

**Other Changes**

<b>Other Changes (\$ in millions)</b>					
	<u>FY 2019-20</u>	<u>FY 2020-21</u>	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>
- Water/Sewer Authorities			No estimate available.		
- <u>Railroad Dividends</u>	<u>(3.6)</u>	<u>(3.7)</u>	<u>(3.7)</u>	<u>(3.7)</u>	<u>(3.7)</u>
<b>Total</b>	<b>(3.6)</b>	<b>(3.7)</b>	<b>(3.7)</b>	<b>(3.7)</b>	<b>(3.7)</b>

**Dissolution and Merger of Water/Sewer Districts**

Section 12.15.(l) authorizes the dissolution and merger of water/sewer districts and authorities. This section has a potential future impact on local government debt and revenues, in that the merger of two districts or authorities would subject all real property in the merged district to the repayment of debt (including a potential increase in ad valorem tax), not just the real property that was associated with the district at the time the debt was incurred. No fiscal estimate is available, because it is unknown whether any water and sewer districts would choose to exercise the merger authority granted under this section.

### Dividends from State-Owned Railroads

Section 40.3B eliminates the requirement that certain State-owned railroads issue an annual cash dividend to the State. Under current law, the dividends are deposited into the Freight Rail & Rail Crossing Safety Improvement Fund within the Highway Fund and support Highway Fund availability. The five-year revenue estimates are based on the base budget amount and are lower than actual projections for this revenue source.

## **TECHNICAL CONSIDERATIONS**

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N/A.

## **DATA SOURCES**

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Department of Revenue; Dept. of Transportation; Administrative Office of the Courts; Dept. of Health and Human Services; Dept. of Public Safety; Alliance of Automobile Manufacturers; US Bureau of Economic Analysis; Securities and Exchange Commission; Moody's Analytics; Internal Revenue Statistics of Income Program; Joint Committee on Taxation; Amazon.com, Inc.; US Census Bureau.

## **LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS**

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This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

## **CONTACT INFORMATION**

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Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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May 30, 2019



Signed copy located in the NCGA Principal Clerk's Offices